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COHEN, PONTANI, LIEBERMAN & PAVANE LLP			EXAMINER	
551 FIFTH AVENUE			TZENG, MICHAEL Y	
SUITE 1210				
NEW YORK, NY 10176			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/563,355

Applicant(s)

FEJFAR ET AL.

Examiner

Michael Tzeng

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-54 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 28-54 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/22)
- Paper No(s)/Mail Date ____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. Applicant's preliminary amendment filed on 1/3/2006 has been entered. No claims have been amended. Claims 1-27 have been canceled. Claims 28-54 have been added. Claims 28-54 are still pending in this application, with claim 28 being independent.

Information Disclosure Statement

2. The references cited in the Search Report issued by the EPO dated 9 March 2004 have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with 37 CFR 1.98(a)(1). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

Claim Objections

3. Claim 52 is objected to because of the following informalities: It currently depends on itself (claim 52), but should depend on claim 51. Appropriate correction is required.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 28 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent and recent Federal Circuit decisions indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim recites a series of steps or acts to be performed, the claim neither transforms underlying subject matter nor is positively tied to another statutory category that accomplishes the claimed method steps, and therefore does not qualify as a statutory process. For example, the **scanned image data evaluating** method including steps of determining and evaluating is of sufficient breadth that it would be reasonably interpreted as a series of steps completely performed mentally, verbally or without a machine. The Applicant has provided no explicit and deliberate definitions of “determining” or “evaluating” to limit the steps to an electronic form, and the claim language itself is sufficiently broad to read on a Patent Examiner looking at scanned images on a monitor, and comparing the scanned images with printout images as reference images.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 28, 31, 32, and 49-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Hidaka et al. (US Patent No. 6,118,455, hereinafter "Hidaka").

Regarding claim 28, Hidaka discloses a method for controlling quality of sets of scanned image data (Col. 3 lines 40-42 discloses a method of highly-accurate color matching for an image processing apparatus; Col. 8 lines 51-52 discloses the use of scanned image data), comprising the steps of:

determining, by an evaluation unit, an output-relevant quality parameter in a scanned image data set, the output-relevant quality parameter being other than a parameter related to technical suitability for output (Col. 8 lines 55-56 disclose the use of an XYZ colorimetric system for consideration); and

evaluating the output-relevant quality parameter by comparing the output-specific quality parameter with at least one reference parameter for at least one selected output process (Col. 9 lines 15-20 disclose the use of the XYZ colorimetric system for consideration of the coloring characteristics of the monitor; Col. 9 lines 21-31 disclose reference parameters (such as color temperature of the monitor)).

Regarding claim 31, which depends on claim 28, Hidaka discloses wherein the evaluation unit is arranged and dimensioned for evaluating scanned image data sets with a data depth of greater than 1 bit (Col. 8 lines 51-65 disclose the use of RGB/XYZ color systems).

Regarding claim 32, which depends on claim 28, Hidaka discloses wherein said step of evaluating is performed using software in a computer-based system (Figs. 1 and 3 disclose the computer system).

Regarding claim 49, which depends on claim 28, Hidaka discloses further comprising the step of storing sets of reference parameters which contain at least one reference parameter so that the sets of reference parameters are retrievable by the evaluation unit as needed (Col. 9 discloses receiving information and reference parameters from the monitor profile; Col. 5 lines 1-10 disclose the storage of the reference parameters).

Regarding claim 50, which depends on claim 28, Hidaka discloses further comprising the step of storing at least one limit value for each reference parameter (Col. 13 lines 42-46 disclose calculating the white in the observation image as a limit for the luminance).

Regarding claim 51, which depends on claim 50, Hidaka discloses further comprising the step of transmitting a signal when the at least one limit value is exceeded (Col. 13 lines 42-46 discloses changing the luminance of the background to be lower when it is above the limit; in computer systems a signal is inherently transmitted when a value is changed).

Regarding claim 52, which depends on claim 51, Hidaka discloses further comprising the step of initiating an error handling procedure in response to said step of transmitting a signal (Col. 13 lines 42-46 discloses the changing of the value of the luminance to correct the error).

Regarding claim 53, which depends on claim 28, Hidaka discloses wherein said steps of determining and evaluating are performed for a quality parameter which is important for further use of the generated output in other output devices (Col. 1 lines 11-26 disclose the importance of color construction).

Regarding claim 54, which depends on claim 28, Hidaka discloses wherein the output-relevant quality parameter being other than a resolution and image size (Col. 9 lines 3-11 disclose the white information as the quality parameter).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hidaka in view of Matsuo et al. (US Patent No. US 7,123,754 B2, hereinafter "Matsuo").

Regarding claim 29, which depends on claim 28, Hidaka discloses wherein the evaluation unit is arranged and dimensioned for evaluating both the scanned image set as a whole (Fig. 8 disclose the evaluation of a whole image). However, Hidaka doesn't specifically disclose evaluating selected areas of the scanned image data set.

Matsuo discloses in a method of image evaluation, that a partial selection of the image is extracted for identification and evaluation (Fig. 1 element 8).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the invention of Hidaka to include the teaching of Matsuo. The motivation for this is for more efficient imaging processing when the whole image does not need to be evaluated and analyzed. This would also save on processing time.

10. Claims 30 and 33-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidaka.

Regarding claim 30, which depends on claim 28, Hidaka does not specifically disclose performing the steps on more than one image set.

However, it was well-known in the art at the time of the invention to use an image processing system on more than one image set. The image processing systems are used to process one set of images, a user can use the system again to process a different image system. Usually users can use a system to process many image sets.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the invention of Hidaka to include using an image processing system on more than one image set. The motivation for this is for cost

efficiency, as it would be beneficial for the user to re-use the system on more than one set of images.

Regarding **claims 33-45**, which depend on claim 28, Hidaka does not necessarily disclose wherein the output-relevant quality parameter are screen frequency, screen angle, area coverage, dot shape, spreading/overprinting, total ink application, color space used, Moiré, minimum area coverage, maximum area coverage, smallest dot size in the light, smallest open dot in the depth dimension, and screen type parameters.

It was well-known in the art at the time of the invention to use various parameters for image evaluation. These parameters are basic for image evaluation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the invention of Hidaka to include the various parameters. The motivation for this is for better image quality control with known parameters at the time of image analysis.

11. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidaka in view of Silverbrook et al. (US Patent No. 6,924,835, hereinafter "Silverbrook").

Regarding claim 46, which depends on claim 28, Hidaka does not disclose further comprising the step of inserting control block data into the scanned image data set, the control block data facilitating determination by the evaluation unit of the output-relevant quality parameter.

Silverbrook teaches in a method of inserting code in photographs that a control block can be inserted into an image (Col. 9 lines 38-45 disclose the encoding of a control block into an image; Col. 2 lines 63-65 disclose the encoding of the control block into the image).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the teaching of Silverbrook in the invention of Hidaka. The motivation for this, as taught by Silverbrook, is for better image quality control and for fault tolerant data storage.

Regarding claim 47, which depends on claim 46, Silverbrook discloses wherein the control block data inserted into the scanned image data set includes an identification code, thereby allowing determination of a position of the control block data within the scanned image data set (Col. 8 lines 21-23 disclose the encoding of the identification information).

Regarding claim 48, which depends on claim 28, Hidaka does not disclose further comprising the step of inserting a result of said step of evaluating into at least one scanned image data set, the result being in the form of a visually or automatically evaluable identification code.

Silverbrook teaches in a method of inserting code in photographs that a control block can be inserted into an image (Col. 9 lines 38-45 disclose the encoding of a control block into an image; Col. 2 lines 63-65 disclose the encoding of the control block

into the image). Silverbrook also teaches that this code is evaluable (Col. 9 lines 32-53 disclose the decoding).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to include the teaching of Silverbrook in the invention of Hidaka. The motivation for this, as taught by Silverbrook, is for better image quality control and for fault tolerant data storage and for identification of images.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tai (Patent No. 5,694,224) col. 55 lines 5-13 disclose the screen frequency parameter. Levien (Patent No. 5,442,461) abstract discloses the screen angle parameter. Yoshida et al. (Patent No. 6,057,932) abstract discloses the total ink application parameter. Fujimori (Patent No. 6,094,018) background discloses the Moiré parameter. Brewington et al. (Patent No. US 6,871,029 B2) col. 3 lines 3-14 disclose the minimum/maximum area coverage parameters. Jeschke et al. (Patent No. 4,681,455) col. 1 lines 8-13 disclose the maximum area coverage parameter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Tzeng whose telephone number is (571) 270-7173. The examiner can normally be reached on Monday-Friday 7:30am-5pm EST with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benny Q. Tieu can be reached on (571) 272-7490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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